

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RODNEY SHIVELY, etc.,

Plaintiff,

v.

CARRIER IQ, INC., et al.,

Defendants.

Case No. C12-0290 EMC

(Related case: C11-5774 EMC)

(MDL Case No. C12-md-2330 EMC
In Re Carrier IQ, Inc.)

**ORDER REGARDING PLAINTIFF'S
RESPONSE TO THE ORDER
RELATING CASES TO MDL ACTION**

Plaintiff Rodney Shiveley has filed a brief in which he asks the Court to “refrain from relating [his] Action with the MDL,^[1] thereby allowing [his] remand motion to proceed for hearing before District Judge Davila” or, in the alternative, to set his motion for remand “as soon as the Court’s schedule permits.” MDL Docket No. 11 (Resp. at 4). To the extent Mr. Shiveley seeks the former relief, the request is **DENIED**. The case is clearly related to the MDL. As to the alternative relief sought, it is likewise **DENIED**, at least to the extent Mr. Shiveley seeks to have the motion to remand heard prior to the initial case management conference for the MDL. Because the substantive claims asserted by Mr. Shiveley overlap with some of the claims in the member cases of the MDL and the issues implicated in his request for remand (*e.g.*, preemption of state claims) may surface in

¹

Technically, Mr. Shiveley’s action has already been related to the MDL. *See* MDL Docket No. 2 (order). The Court, however, shall still entertain the request as one to “undo” the relating of the case with the MDL.

1 the MDL, it makes sense from a case management perspective to defer the motion and have its
2 scheduling set after the CMC is held.

3 IT IS SO ORDERED.

4
5
6 Dated: May 2, 2012



Edward M. Chen
United States District Judge